

Exhibit 19

(Filed Under Seal)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Fair Isaac Corporation,)	File No. 16-CV-1054
)	(WMW/DTS)
Plaintiff,)	
)	
vs.)	Minneapolis, Minnesota
)	June 4, 2019
Federal Insurance Company)	
and ACE American Insurance)	DIGITAL RECORDING
Company,)	
)	
Defendants.)	
)	

BEFORE THE HONORABLE DAVID T. SCHULTZ
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

(TELEPHONE CONFERENCE)

APPEARANCES

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P R O C E E D I N G S

I N O P E N C O U R T

THE COURT: All right. We are on the record in the matter of Fair Isaac Corporation vs. Federal Insurance Company, Civil No. 16-1054.

Counsel for FICO, if you would note your appearances for the record, please.

MS. KLIEBENSTEIN: Yes, Your Honor. Heather Kliebenstein and Joe Dubis of Merchant & Gould.

THE COURT: Good morning.

And for the defendant?

MR. FLEMING: Your Honor, Terry Fleming, Leah Janus, and Chris Pham of the Fredrikson law firm representing defendant.

THE COURT: All right. We have a number of things that I want to accomplish today. First, I will give you my ruling on the privilege log entries. Second, I will give you my ruling on the documents requested to be produced by FICO regarding negotiations over prices. Third, we have to look at the business rules issue. And fourth, the dissemination of the expert report. So that's what was on my agenda.

Turning first to the privilege log entries, I have reviewed privilege log entry number 656, 662, and 665 from FICO's privilege log and all three of the e-mail strings --

1 they are all three e-mail strings. All three of them are,
2 in fact, privileged and I'll give you a little bit of my
3 rationale for that.

4 First of all, they're different e-mail chains, but
5 they spring from a common source and then privilege log
6 entry 662 and 665 then branch off and have unique
7 information or communications, but all three of them request
8 or provide legal advice. You are entitled to know that the
9 legal advice concerns the interpretation of the software
10 license agreement.

11 There is -- as is always the case almost, there
12 are minor portions of the communications that are perhaps
13 not strictly speaking privileged, but they are so interwoven
14 with the privileged communications as to be incapable of
15 meaningful redaction.

16 To the extent that any of the communication
17 reflects business advice as opposed to legal advice, I have
18 reviewed that question carefully and the legal advice
19 portion clearly predominates over the business advice
20 portion, to the extent there is any. And if one were to
21 attempt to extract the business advice portion, it would be
22 impossible to do that without revealing the content of the
23 legal advice.

24 So those three documents, entries number 656, 662,
25 and 665, are privileged and will not be produced. Let me

1 pause there and ask if anyone has questions regarding that.

2 MS. KLIEBENSTEIN: No questions from the
3 plaintiff, Your Honor.

4 THE COURT: Any --

5 MR. FLEMING: Your Honor, this is Terry Fleming.
6 One of the issues was the description of the entries and
7 you've stated that they concern the interpretation of the
8 software license agreement. Is it possible to have a more
9 expansive description, such as in connection with --
10 concerning the interpretation of the SLA reuse outside of
11 the United States?

12 THE COURT: I don't believe that would be either
13 necessary or appropriate. So I am going to say no on that,
14 but by all means you are more than welcome to appeal that
15 issue to Judge Wright.

16 Okay. Moving on to the letter from
17 Ms. Kliebenstein dated May 24, 2019 regarding the production
18 of documents relating to what they've described in their
19 letter as Query Number 1 and Query Number 2. Let me ask
20 first if, Mr. Fleming, you wish to be heard on anything
21 relating to that issue.

22 MR. FLEMING: Just very briefly, Your Honor. The
23 only comment that we have in response to that letter relates
24 to the project that Federal had to undertake to respond to
25 FICO's Requests 55 through 70, which similarly required an